IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

RCRev..No. 215 of 2007

RCA.169/2003 of RENT CONTROL APPELLATE AUTHORITY, THALASSERY
RCP.147/2000 of RENT CONTROL COURT, THALASSERY

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REVISION PETITIONERS/APPELLANTS/RESPONDENTS:

1. MRS. JANAKI, W/O LATE K.K.SREEDHARAN,
   RESIDING AT PALLIPARAMBATH HOUSE,
   P.O.CHONADAM, ERANHOLI AMSOM,DESOM,
   THALASSERI.

2. MR.PRADEEP, S/O LATE K.K.SREEDHARAN,
   DO. DO.

3. MRS.ANILA, D/O LATE K.K.SREEDHARAN,
   DO. DO.

4. MRS. SHARMILA, D/O LATE K.K.SREEDHARAN,
   DO. DO.

BY ADV. SRI.H.BADARUDDIN
SRI.C.A.JOSEPH

RESPONDENT/PETITIONER:

A.P.MANHUMMA, W/O USMAN,
AGED 42 YEARS, RESIDING AT
ZENL OV ROAD, THALASSERI.

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 11/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

R.C.R.No. 215 of 2007

ORDER

Balachandran, J.

Tenants are the revision petitioners. They challenge in this revision the order of eviction passed against them in R.C.P.No.147/00 on the file of the Rent Control Court, Thalassery under Section 11(3) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as 'the Act'), which was confirmed in appeal, vide judgment in R.C.A.No.169/03 by the Rent Control Appellate Authority, Thalassery. Though the petition for eviction was filed also under Sections 11(2)(b), 11 (4)(ii) and 11(4)(v) of the Act, eviction on those grounds were rejected by the Rent Control Court and as no appeal had been filed by the respondent/ landlady against the said rejection, claim for eviction on those grounds are set at rest.

2. We have heard the submissions of the learned counsel for the petitioners and we are not convinced that grounds exist for us to interfere in revision in the concurrent findings of the authorities below entered into on the basis of evidence to the effect that the need advanced by the respondent/landlady for vacant possession of the scheduled building to start business for her son is bona fide and genuine. This revision, in the circumstances, is devoid of merit and deserves to be dismissed.

3. It is finally urged by the counsel for the petitioner that reasonable time be granted to the petitioners to surrender vacant possession of the scheduled building to the respondent/landlady. The request so made on behalf of the petitioners deserves to be considered favourably.

In the result, we dismiss this Rent Control Revision. At the same time we grant time to the petitioners to surrender vacant possession of the

scheduled building to the respondent/landlady till 31.12.2007 on the following conditions:

i. that they shall deposit the entire arrears of rent, if any, in the execution court with a detailed statement as to its correctness within three weeks from today.

ii. that they shall file affidavit before the execution court within one month from today, reporting that all arrears of rent are cleared and unconditionally undertaking that they will surrender vacant possession of the scheduled building to the respondent/landlady positively on or before 31.12.2007 and that they will continue to pay the monthly rents on the due dates itself till they actually surrender vacant possession of the scheduled building to the respondent/landlady and

iii. that in case the petitioners fail to comply with the above conditions, they shall not be entitled to the benefit of continuing in occupation of the scheduled building till 31.12.2007 and shall

be liable to be evicted immediately on the expiry of the aforesaid one month in execution of the order of eviction passed against them.

The Registry shall forward a copy of this order to the respondent/landlady at the expense of the petitioners, as this revision is being disposed of at the admission stage itself without notice to her.

(J.B.Koshy, Judge)

11th July, 2007

(K.P.Balachandran, Judge)

tkv